

**REMARKS**

In the Advisory Action mailed February 3, 2005, Examiner Psitos recommended that Applicant file an RCE (apparently, because the final Office Action mailed August 25, 2004 did not contain any rejection on the prior art). Applicant has followed the Examiner's suggestion in the filing of this RCE. In the Advisory Action the Examiner stated that, **"The newly submitted drawings and amendments to the disclosure are approved for entry"**. Furthermore, the Examiner stated that the proposed claim amendments overcame the §112 rejections of claims 1 and 2.

However, in accordance with MPEP 706.07(h), Applicant augments and incorporates herein by reference the amendments contained in the (unentered) Amendment filed on January 25, 2005.

In the Advisory Action, the Examiner states:

c) the amendments to claims 3 and 4, do not overcome the previous 112 rejections because:

1) these claims penultimate paragraph recite desired results that either: inherently follow from the structure positively recited in claim 3 and hence would require a new rejection of this claim predicated upon the Meadows reference, see the additional discussion with respect to the wavelength of the light beam used in the system: or in the case of claim 4 require a light source to be part of the overall system and such is not positively recited as part of the claimed elements as presented.

Applicant does not understand the Examiner's reference to the "penultimate" paragraph of these claims, since this paragraph is quite definite in that it recites parameters of the claimed "optical recording medium". Therefore, if the Examiner does not now find claim 3 (and its

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dependent claim 4) to be allowable, Applicant requests clarification of the Examiner's statement. On the other hand, Applicant has amended the last clause of claim 3 (in the event that the Examiner meant to refer to this last clause), whereby this claim now definitely defines structure, and is certainly a proper limitation on the optical recording medium of the claimed optical recording system.

The Examiner's objection to claim 4 apparently was based on the objection to its parent claim 3.

Since claim 3 now is definite, and claim 4 is dependent on claim 3, Applicant respectfully submits that claims 3 and 4 both overcome any possible rejection under 35 U.S.C. § 112, first or second paragraphs. Support for claims 3 and 4 is found in Applicant's specification at page 28, lines 15-20; page 30, line 24 to page 31, line 7; and page 83, last line to page 84.

Applicant does not understand the Examiner's "Note 12". Applicant refers the Examiner to page 7 of the Amendment filed on March 12, 2004 (and re-faxed to the Examiner on June 28, 2004), wherein Applicant explains that "optional length" is, in fact, correct in both claims 1 and 16.

As for the Examiner's suggestion that he/she may consider "a reintroduction of the rejection as stated on page 4, paragraph 10 of the OA dated 11/12/03", Applicant has already traversed (see the Amendment filed March 12, 2004) these rejections under 35 U.S.C. § 102(e) and 35 U.S.C. § 103(a), which rejections were **not repeated** in the final Office Action mailed August 25, 2004.

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In any event, Applicant again respectfully traverses both of these statutory rejections based on Medower '427.

Medower neither anticipates nor renders obvious any of claims 1-4, at least for the reason that Medower's recording medium has a perfectly level surface, which thus is at cross-purposes with Applicant's claims 1-4. The last paragraph on page 8 of the Amendment filed on March 12, 2004, is expressly incorporated herein by reference to traverse any new or resurrected rejection based on Medower.

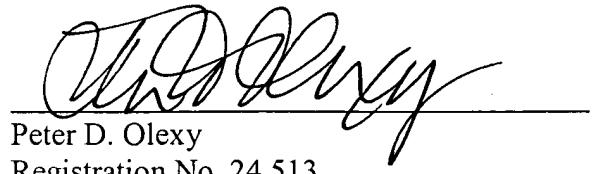
If the Examiner does not consider the application now to be in condition for allowance with all of claims 1-4 and (already allowed) claims 16-22, the Examiner is respectfully requested to **call the undersigned attorney** to discuss any unresolved issues and to expedite the disposition of the application.

Applicant files concurrently herewith a Petition (with fee) for an Extension of Time of one (the third) month. Applicant hereby petitions for any extension of time which may be required to maintain the pendency of this application, and any required fee for such extension is to be charged to Deposit Account No. 19-4880. The Commissioner is also authorized to charge

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any additional fees under 37 C.F.R. § 1.16 and/or § 1.17 necessary to keep this application pending in the Patent and Trademark Office or credit any overpayment to said Deposit Account No. 19-4880.

Respectfully submitted,



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